

REMARKS

Claims 11-23 are pending in the present application. Claims 11 and 19 have been amended, leaving Claims 11-23 for consideration upon entry of this amendment. The claims have been amended to cure the rejections of the claims under 35 U.S.C. §112, first paragraph as explained in detail below. No new matter has been introduced by these amendments. Reconsideration and allowance of the claims is respectfully requested in view of the above amendments and the following remarks.

1. Claim Rejections Under 35 U.S.C. §112, first paragraph

Claims 11-23 stand rejected under 35 U.S.C. §112, first and second paragraphs. In particular the Examiner has stated that the specification does not reasonably provide enablement for an impact strength retention of 80-100%. Applicants have amended independent claims 11 and 19 to recite "the composition retains 80% to 97% of the original Izod impact strength after one week aging at 63°C and 100% relative humidity". Support for this amendment can be found in Examples 1 and 2.

In view of the foregoing amendments and remarks withdrawal of the rejection of Claims 11-23 under 35 U.S.C. §112 and allowance of said claims is respectfully requested.

2. Claim Rejections Under 35 U.S.C. §103

Claims 11-15 and 19-22 stand rejected under 35 U.S.C. §103(a) as obvious over U. S.

Patent No. 5,672,645 to Eckel et al. or U. S. Patent No. 4,883,835 to Buysch et al. in view of U. S. Patent No. 5,643,981 to Yang et al. In making the rejection the Examiner has stated that "it would have been obvious to use less than 2.5% by weight of SAN in the compositions of Eckel et al. or Buysch et al., since Yang et al. teach that lower concentrations of the polymer can be used without any impairment of the desired properties, while improving the flexibility and lowering the cost." The Examiner also asserts that Eckel discloses 1.8% by weight as the minimum amount of SAN. The Examiner further asserts that the 2.7% by weight minimum of Buysch et al. is close enough to 2.5% by weight to make it obvious. Applicants respectfully disagree.

U.S. Patent No. 5,643,981 to Yang et al. (Yang) discloses a composition comprising 2-20 parts by weight aromatic disphosphates, 2-7 parts by weight phosphorous compounds, 0.1-2.0 parts by weight perfluoroalkyl resins per 100 parts by weight of the resin mixture consisting of from 60-98% by weight polycarbonate resins, 2-40 % by weight styrene-containing graft copolymer resins and from 0 to 20 % by weight styrene-containing copolymer resins. Yang is completely silent with regard to the molecular weight of any of the resins making up the resin mixture. Additionally, while Yang discloses that the styrene-containing copolymer resin may be present in any amount up to 20% by weight, the examples contain either 0, 9 or 10 weight percent styrene-containing copolymer and do not provide sufficient teaching with regard to compositions containing low levels (1 to 2.5 weight percent) of the styrene-containing copolymer in combination with high levels of rubber as is instantly claimed. With regard to the Examiner's assertion that Yang teaches lower concentrations of the styrene-containing copolymer can be used without any impairment of

the desired properties Applicants can find no explicit statement to this effect, merely the teaching in the examples in which the only physical properties that are discussed are fire resistance, heat resistance, juicing and processability. Applicants respectfully assert that there is no teaching in Yang, Eckel or Buysch that any of these properties are predictive for the retention of Izod impact strength after exposure to heat and humidity as described and claimed in the pending application. Hence, someone without our knowledge of the solution could not reasonably be expected to combine the teachings of the cited references.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996). Applicants respectfully assert that the cited references do not contain incentive that would have motivated a skilled artisan to combine them.

The Examiner has asserted that Eckel discloses 1.8% by weight as the minimum amount of SAN. Applicants believe that the Examiner may have overlooked some of the teaching of Eckel et al., particularly the statement appearing at Col. 2, line 61 that says "The sum of all the parts by weight A+B+C+D+E is 100." This statement communicates the fact

that the parts by weight is equivalent to percent by weight. Hence 3% by weight is the minimum amount of SAN taught by Eckel et al.

The Examiner further asserts that the 2.7% by weight minimum of Buysch et al. is close enough to 2.5% by weight to make it obvious. Applicants respectfully assert that 2.7% by weight represents an 8% increase over 2.5% by weight and the increase or decrease of a component by 8% can have an impact on the properties of the final composition. Accordingly, Applicants assert that the 2.7% by weight minimum of Buysch et al. is not close enough to 2.5% by weight to make it obvious

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants.

Accordingly, reconsideration and allowance is requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 07-0862 maintained by the Assignee.

OFFICIAL

Respectfully submitted,

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